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SUBJECT: CHINA TIP INTERIM ASSESSMENT 2009

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11. (U) China has made progress since April 2009 in combating human trafficking. The Chinese government is implementing the National Plan of Action (NPA) on Combating Trafficking in Women and Children (2008-2012) and has issued regulations and directives to strengthen its response to sex trafficking and labor trafficking. China declared its intention to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, but has yet to finish the comprehensive review of China's laws and regulations required by the Protocol. China improved efforts to investigate and prosecute trafficking offenses and punished trafficking offenders. China has increased efforts to address labor trafficking, but serious problems remain. Chinese officials worked with non-government organizations (NGOs) and international experts to boost its efforts in the areas of prevention, protection, rehabilitation and reintegration of trafficking victims into society. China is working to standardize guidelines for identification of trafficking victims and to offer comprehensive victim protection services, although guidelines and programs remain in the development phase. China continues to consider all North Koreans "economic migrants" rather than refugees. End Summary.

#### Revising Laws and Regulations to Address Trafficking

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12. (U) China in 2009 augmented efforts to implement the National Plan of Action (NPA) and issued new rules and regulations to strengthen and standardize China's response to sex trafficking and labor trafficking nationwide. The Ministry of Public Security (MPS) and 29 government departments and agencies in 2009 jointly issued NPA implementation guidelines to restructure government counter-trafficking work. Government inter-ministerial meetings were held and additional guidelines were issued throughout the year to better coordinate intra-government efforts and to strengthen counter-trafficking and victim protection regulations. The Supreme People's Court (SPC) in March issued prosecutorial guidelines for human trafficking cases. Government officials together with international non-government organizations (NGOs) co-hosted several workshops on bridging Chinese anti-trafficking laws with the UN's Palermo Protocol in order to prepare for China's accession to the protocol and to make recommendations to Chinese lawmakers. Law workshops also were held at the local level; according to the Yunnan Public Security Bureau (PSB), new local laws and regulations are being proposed to strengthen prosecution of traffickers and the buyers of trafficking victims.

13. (U) Members of the National People's Congress (NPC) and the Supreme People's Court (SPC) have indicated that China's criminal law can be revised in order to accommodate differences between China's legal framework and international law. Chinese legal experts describe the differences between Chinese domestic law and the Palermo Protocol as "minor and technical." Chinese legislative officials indicate "little

problem" with China accepting the Palermo definition of a minor to be under 18 years of age because Chinese domestic law already acknowledges children as being under 18. There is a clear need for forced labor and trafficking to be specifically addressed in criminal law in order to protect victims and ensure sufficient penalties. While Chinese law allows for the prosecution and punishment of recruiters and employers who facilitate forced labor and bondage, commentators suggest that the punishment should be made more harsh. At present, China's definition of trafficking does not include forced labor nor trafficking of men and boys, while a minor is defined as a person under 14 years of age.

#### Efforts to Investigate, Prosecute and Punish Offenses

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¶4. (U) China in 2009 significantly increased and improved efforts to investigate and prosecute trafficking offenses and convict and punish trafficking offenders. Public officials complicit in trafficking were punished, although further official complicity almost certainly remains. The central government in 2009 changed local security officials' promotion criteria to include counter-trafficking work and instructed public security bureaus nationwide to immediately investigate missing child cases as criminal cases. China PSB authorities from April to December 2009 carried out a nationwide campaign to crackdown on trafficking in women and children. As of October 28, public security organs reportedly solved 4420 trafficking cases, eliminated 982 criminal gangs, detained 6214 criminals, captured 1358 fugitives, and rescued 2169 abducted children and 3851 women. This represented a dramatic increase from security bureaus'

BEIJING 00003214 002 OF 004

counter-trafficking activity in 2008.

¶5. (U) Prosecution and conviction of trafficking offenders also increased significantly in 2009, mostly focused on cases involving trafficking of women and children. In 2009, China issued Class A arrest warrants for trafficking offenders and by October had successfully arrested 18 of China's 20 most-wanted human traffickers. These suspects were awaiting prosecution at time of publication. China was also beginning to go after criminal networks and organized crime syndicates involved in trafficking.

¶6. (U) There were several reports documenting the conviction and punishment of public officials complicit in trafficking. Most notable were the arrests and prosecutions of a legal affairs official, county legislator, head of the county migration office, and a social security official in Guizhou province; and the detention of 18 persons, including two local government officials, now facing multiple charges of sexual assault of a minor after allegedly raping and forcing underage girls into prostitution in Anxi county, Fujian province.

#### Labor Trafficking

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¶7. (U) China has increased efforts to address labor trafficking and has had modest success in protecting victims, but serious problems still exist. China's seriousness in addressing trafficking for labor exploitation has been demonstrated in crackdowns in Shanxi brick kilns and other anecdotal cases, according to international labor experts. Nine government ministries and labor entities in 2009 launched a nationwide campaign to combat illegal employment in small and medium-sized labor intensive factories located in suburban and rural areas, especially small-scale brick workshops and mines. Forced labor and international labor conventions were openly discussed at technical consultations with international experts on China's proposed ratification of the Palermo Protocol. The Dongguan (Guangdong province) Labor Administration Bureau blacklisted ten employers for not paying wages to workers forced to work; at least one of these

employers was found to have employed child labor. The All China Women's Federation plans to continue for an additional three years its "Spring Rain" project with the International Labor Organization (ILO) to address women and child migrant trafficking.

¶8. (U) China's efforts to address labor trafficking are far more significant where children are the trafficking victims. Reliable statistics on the prevalence of child labor are not available, but the government acknowledges there is a problem and admits that it is relatively prevalent in certain industries, including manufacturing. The central government issued a document clarifying government agency responsibilities in combating child labor and imposed obligations on government officials as part of an enlarged effort to combat child trafficking. In August, five ministries on China's State Council launched a campaign against the rising occurrence of minors being trafficked to beg or commit crimes. China in April worked with Costa Rican authorities to break up and arrest members of an international human smuggling ring that was trafficking Chinese children to Costa Rica for forced labor.

#### Cooperation with Foreign Governments

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¶9. (U) China in 2009 increased cooperation with foreign governments, including the United States government, on cross-border trafficking cases. In addition to taking part in the United Nations Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) process with Cambodia, Laos, Burma, Thailand and Vietnam at the central government level, Chinese provincial-level officials also have increased counter-trafficking and victim protection activities with bordering countries. Mongolian government and non-government officials report in the last year having "unprecedented" counter-trafficking cooperation with Chinese public security officials in Erlian (Erenhot) and Macau, and increasing cooperation in Hong Kong and Shenzhen, all primary destination cities for trafficked Mongolian women. The Vietnamese Consul General in Nanning, Guangxi province, said that his consulate had "excellent" relations with Guangxi public security officials and that both sides routinely shared TIP leads. China in 2009 continued bilateral counter-trafficking information sharing and cooperation with Japan, Vietnam, Thailand, Laos and Burma; worked with Thailand, Burma, Malaysia and Vietnam on victim repatriation; held joint capacity training workshops for border liaison offices and signed an MOU with Burma to improve victim

BEIJING 00003214 003 OF 004

protection, recovery, repatriation and reintegration; and signed an agreement on judicial cooperation with Taiwan with a special focus on kidnapping and human trafficking. MPS has asked Post for increased information sharing and exchange on TIP cases with U.S. law enforcement officials, sent Chinese public security officials to attend U.S. counter-trafficking training programs, and expressed a desire for U.S.-approved training on best practices for counter-trafficking, victim identification, repatriation and reintegration activities.

#### Identifying, Protecting, and Rehabilitating Victims

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¶10. (U) China in 2009 worked to increase its capacity to identify victims of trafficking among vulnerable groups. In provinces where human trafficking is more prevalent, there were reports of Chinese officials conducting screening and providing victim protection services. NGOs along the southern border reported improvements in Chinese official rescue and rehabilitation support to trafficking victims; however, these efforts need to be further strengthened and standardized nationwide. Victim identification is challenging and requires training. Central government officials together with non-government officials participated in several training conferences on identifying and protecting

victims of trafficking. During at least two of these conferences, Chinese officials together with international experts jointly made presentations on victim identification, repatriation and reintegration, and Chinese officials spoke on the importance of standardizing guidelines for identifying trafficking victims. At the local level, Yunnan province officials and relief center staff, and local civil affairs authorities in September held a workshop with international experts on shelter guidelines for victims of trafficking and improving victim identification and protection in relief centers. China held training workshops for border liaison offices with Burma to increase Chinese and Burmese police force capacity to identify and safeguard the rights and interests of victims being trafficked across the border. During the workshop, international experts trained border forces on victim identification, protection, recovery, repatriation and reintegration.

¶11. (U) China in 2009 worked to address deficiencies in its provision of comprehensive victim protection and rehabilitation services, although more work needs to be done.

China's ability to protect and rehabilitate victims of trafficking is greater in areas where TIP is prevalent, such as in Yunnan province, where victims are known to receive medical care, socio-psychological support, and vocational and other training. International organizations and NGOs reported a marked increase in Chinese officials' interest in and receptivity toward acquiring best practices in victim identification, protection, and rehabilitation; this is important because Chinese officials previously lacked knowledge and expertise in these issues. Officials are focused on protecting and rehabilitating sex trafficking victims; however, labor trafficking victims -- notably children trafficked for labor purposes -- are also considered. The Ministry of Civil Affairs began training managers of China's more than 1300 relief centers on victim identification, protection, recovery and reintegration. Throughout 2009, key government entities concerned with counter-trafficking worked together with international experts, and non-governmental organizations attended numerous training and capacity-building workshops on protecting and rehabilitating victims of trafficking. At the workshops attended by Embassy staff, training content specifically covered forced labor and sex trafficking victims.

#### Legal Alternatives to Repatriation

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¶12. (U) Although China provides temporary shelter and assistance to foreign victims of trafficking, there continue to be no legal alternatives to repatriation. Most foreign victims are therefore returned to their country of origin upon identification. China continues to work together with COMMIT members, especially Vietnam and Burma, on anti-trafficking programs, and uses its Border Liaison Offices in Yunnan and Guangxi provinces to facilitate repatriation of victims. Government officials in 2009 participated in several training workshops on best practices for victim identification, protection and repatriation, where government and non-government officials together with international experts discussed the technicalities and importance of providing foreign victims with legal alternatives to forced repatriation.

#### Reducing Demand for Forced Labor and Commercial Sex Acts

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BEIJING 00003214 004 OF 004

¶13. (U) China in 2009 conducted campaigns to combat both forced labor and prostitution. Nine government ministries and labor industries launched a nationwide campaign to combat illegal employment in small and medium-sized labor intensive factories located in suburban and rural areas, especially small-scale brick workshops and mines. The central government launched a nationwide crackdown on prostitution

targeting individuals or groups who force, tempt, permit or introduce women to prostitution; operators of entertainment venues that permit or introduce prostitution; and anyone who conducts illegal activities with minors. From July through August, police solved 5572 cases of organizing, forcing, luring, harboring, and introducing women into prostitution; 8257 suspects were detained. There is evidence of local campaigns to reduce the demand for forced child labor and commercial sexual acts.

#### Adhering to Refugee Convention Obligations

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¶14. (U) Post has seen no substantial evidence to date indicating a change from 2008 in China's unwillingness to adhere to its obligations under the 1951 Refugee Convention and the 1967 Protocol. China appears to continue to treat North Korean trafficking victims as unlawful economic migrants.

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